

# **EXHIBIT H**

# SENATE, No. 1290

By Mr. Moore, a petition (accompanied by bill, Senate, No. 1290) of Richard T. Moore for legislation to concern nutrition labeling of food by certain restaurants. Public Health.

Version with line numbers

## The Commonwealth of Massachusetts



In the Year Two Thousand and Seven.

### AN ACT CONCERNING NUTRITION LABELING OF FOOD BY CERTAIN RESTAURANTS

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. This Act may be cited as the Menu Education and Labeling (MEAL) Act of 2008.

#### SECTION 2. FINDINGS.

(a) Research continues to reveal the strong link between diet and health, and that diet-related diseases start early in life.

(b) Increased caloric intake is a key factor contributing to the alarming increase in obesity in the United States .

According to the Centers for Disease Control and Prevention, two-thirds of American adults are overweight or obese, and the rates of obesity have tripled in children and teens since 1980. Obesity increases the risk of diabetes, heart disease, stroke, and other health problems. Each year obesity costs families, businesses, and governments \$117 billion.

(c) Excess saturated fat intake is a major risk factor for heart disease, which is the leading cause of death for men and women in the United States . Heart disease is also a leading cause of disability among working adults and its impact on the U.S. economy is significant, estimated in 2005 to cost \$393.5 billion in health care expenditures and lost

productivity.

(d) Increased sodium intake is associated with increased risk of high blood pressure, a condition that can lead to cardiovascular disease, especially stroke. The proportion of Americans with high blood pressure is 45 percent at age 50, 50 percent at age 60, and over 70 percent at age 70.

(e) Over the past two decades, there has been a significant increase in the number of meals prepared and/or eaten outside the home, with an estimated one-third of calories and almost half (46 percent) of total food dollars being spent on food purchased from and/or eaten at restaurants and other food-service establishments.

(f) Studies link eating out with obesity and higher caloric intakes. Foods that people eat from restaurants and other food-service establishments are generally higher in calories and saturated fat and lower in nutrients, such as calcium and fiber, than home-prepared foods.

(g) While nutrition labeling is currently required on most packaged foods, such information is required only for restaurant foods for which nutrient content or health claims are made.

(h) Three-quarters of American adults report using food labels on packaged foods, which are required by the Nutrition Labeling and Education Act of 1990. Using food labels is associated with eating more healthful diets, and approximately half (48 percent) of people report that the nutrition information on food labels has caused them to change their minds about buying a food product. Research shows that people make more healthful choices when restaurants provide point-of-purchase nutrition information.

(i) It is difficult for consumers to limit their intake of calories at restaurants, given the limited availability of nutrition information, as well as the popular practice by many restaurants of providing foods in larger-than-standard servings and 'super-sized' portions. Studies show that people eat greater quantities of food when they are served more.

SECTION 3. Sec. 21a-102 of the General Statutes are amended by adding to the end, the following:

(1) (a) A restaurant or food establishment shall provide nutritional information for all standard menu items listed on the menu, including but not limited to the total number of:

(1) calories;

(2) grams of saturated fat plus trans fat;

(3) grams of carbohydrates; and

(4) milligrams of sodium

per serving, as usually prepared and offered for sale.

(b) Restaurants that use a standard menu shall provide such information next to each item on the menu in a size and typeface similar to other information about each menu item.

(c) A restaurant is exempt if it has fewer than ten locations nationally, doing business under the same trade name, regardless of the type of ownership of the individual restaurant locations, and offering predominantly the same types of meals, foods or menus.

(d) If the restaurant or similar retail food establishment uses only a menu board, it may limit the nutritional information listed on the menu board to the total number of calories per serving per item in a size and typeface similar to other information about the item; provided, that the additional nutrition information be made available to customers in writing upon request.

(e) If a restaurant or similar retail food establishment provides a salad bar, buffet line, cafeteria service, or similar self-serve arrangement, it may limit the nutritional information provided for items offered in such an arrangement to the total number of calories per standard serving per item next to where the item is offered in a size and typeface that is prominent and legible from where customers are choosing those items; provided, that the additional nutrition information about the item shall be made available to customers in writing upon request.

(f) "Standard menu items" do not include (i) temporary menu items, such as specials that appear on the menu for less than 30 days per year; and (ii) condiments and other items placed on the table or counter for general use without charge.

SECTION 4. Nothing in this Act precludes restaurants and similar retail food establishments from providing additional nutrition information voluntarily.

SECTION 5. (a) For the purposes of this Act, restaurants and similar retail food establishments shall obtain the nutrient

analysis required by this Act using analytic methods and express nutrient content in a manner consistent with the Uniform Food, Drug, and Cosmetic Act and implementing regulations. A label is out of compliance with the Act if the label declaration is more than 20% lower than nutrient analysis shows as the average content of a representative sample of the menu item.

(b) For menu items that come in different flavors and varieties but that are listed as a single menu item, such as soft drinks, ice cream, pizza, and doughnuts, the median value for calories or other nutrients for all flavors or varieties shall be listed on menus and menu boards if the calorie or other nutrient values for all flavors or varieties are within 20% of the median. If the calories or other nutrient values are not within 20% of the median, then the range for all the flavors or varieties of that menu item shall be listed from the lowest to the highest value. If a menu item that comes in different varieties is on display with a name placard or similar signage, the calories per serving as-offered-for-sale shall be listed on the placard along with the name. If a menu item is not on display, nutrition information for each individual flavor or variety shall be provided by means of an in-store brochure, booklet, kiosk, or other device that is easily accessible to customers. Signage should alert customers to the availability of such information.

SECTION 6. (a) The Department of Health shall issue proposed regulations to implement the Act within 12 months after the date of the enactment of this Act. Such regulations shall require the required information to be conveyed to the public in a manner that enables the public to readily observe and comprehend such information and to understand its relative significance in the context of a total daily diet. The implementing regulations will take effect 6 months after they are finalized. If the Department of Health does not promulgate final regulations within 24 months after the date of the enactment of this Act, the proposed regulations shall be considered as the final regulations.

(1) The bottom of each page of a menu must include, in a clear and conspicuous manner, the following statement: "Recommended limits for a 2,000 calorie daily diet are 20 g of saturated fat and 2,300 mg of sodium. Saturated fat numbers include trans fat." If no items on the menu contain more than 0.5 grams of trans fat from partially hydrogenated oil per serving, the statement "saturated fat numbers include trans fat" can be omitted.

(2) When used by chain restaurants, menu boards must include, in a clear and conspicuous manner, the following statement: "Daily Values are based on a 2,000 calorie diet."

SECTION 7. The Commissioner or his duly authorized agents or employees who inspect restaurants and food establishments shall be required to determine that the nutrition information required under this section is listed on the

menu or menu board and that any additional required information is available for customers upon request. Such inspectors shall not be required to verify the accuracy of the nutritional listings. The Department of Health may request that franchisors or corporate owners of chain restaurants and food establishments provide documentation of the accuracy of the nutritional information.